

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOE, et al.,

Plaintiffs,

-against-

BEDFORD CENTRAL SCHOOL DISTRICT,
et al.,

Defendants.

ORDER

18-CV-11797 (PMH)

PHILIP M. HALPERN, United States District Judge:

The Court held an in-person pretrial conference on April 4, 2023. Counsel for all parties appeared. As explained more fully on the record during the appearance, the Court directs as follows:

1. This case is set as the primary trial for **October 10, 2023** and will proceed to jury selection at 9:30 a.m. on that date. The case must be trial-ready by then and will not be adjourned. A final pretrial conference is scheduled for **September 28, 2023** at 11:00 a.m. in Courtroom 520 of the White Plains Courthouse.
2. With respect to Plaintiffs' motions *in limine* (Doc. 150; Doc. 152):
 - a. The first branch of Plaintiffs' motion seeks to admit "six pictures and fewer than five minutes of home videos of A.A." (PL00003102, PL00003111, PL00003112, PL00003113, PL00003116, PL00003117, PL00002372, PL00002373, PL00002374, PL00002375, PL00003121). That motion is **GRANTED** and these documents are admitted for all purposes at trial.
 - b. The second branch of Plaintiffs' motion seeks to admit "four pictures showing the location where A.A. died, the rope that caused his asphyxiation, and A.A.'s handprints on the ceiling pipe where he was suspended." (PL00002732, PL00002733, PL00002734, PL00002736). That motion is **DENIED** because the probative value of such evidence is substantially outweighed by the risk of undue prejudice under Federal Rule of Evidence 403.
3. The parties shall meet and confer regarding the Court's directives and instructions as to the Amended Proposed Joint Pretrial Order (Doc. 149) and file, by **May 1, 2023**, a Second Amended Proposed Joint Pretrial Order. Specifically:


- a. The time for trial should not exceed **6** days;
 - b. Defendants shall submit to Chambers on **September 27, 2023**, via email at HalpernNYSDChambers@nysd.uscourts.gov, documentation of Defendant Manno's unavailability for trial pursuant to Federal Rule of Civil Procedure 32(a)(4);
 - c. With respect to the remaining objections to the parties' exhibits:
 - i. Defendants' objection to Plaintiffs' Exhibit 137 is **sustained** and, pursuant to the Court's rulings *in limine*, that exhibit will be precluded at trial unless relevant on and used only for cross-examination;
 - ii. Defendants' objections to Plaintiffs' Exhibits 140 and 144 are **overruled** and, pursuant to the Court's rulings *in limine*, those exhibits are admitted for all purposes at trial;
 - iii. Each of Plaintiffs' remaining exhibits listed in the parties' proposed Amended Joint Pretrial Order at Doc. 149 not objected to therein is hereby admitted for all purposes at trial;
 - iv. Plaintiffs' objections to Defendants' Exhibits GG and HH are **overruled** and those exhibits are admitted for all purposes at trial;
 - v. Each of Defendants' remaining exhibits listed in the parties' proposed Amended Joint Pretrial Order at Doc. 149 not objected to therein is hereby admitted for all purposes at trial;
 - d. The parties shall re-number their respective exhibit lists sequentially and in light of the Court's rulings. The parties shall also re-number their exhibit binders and indices therein accordingly. The parties shall re-submit all three copies of their exhibit binders and flashdrives to Chambers by **May 1, 2023**.
4. The parties shall meet and confer regarding the Amended Proposed Verdict Sheet (Doc. 134) in light of the Court's comments thereto on the record and file, by **May 1, 2023**, a Second Amended Proposed Verdict Sheet. Specifically, the Court asked the parties to: (i) consider how to specify Plaintiffs' wrongful death claim for relief; (ii) make clear that Plaintiffs may not recover for non-pecuniary losses on their own behalf under N.Y. Est. Powers & Trusts Law § 5-4.3; and (iii) streamline the questionnaire to mitigate the potential for a double recovery.
 5. The parties shall email to Chambers at HalpernNYSDChambers@nysd.uscourts.gov a Microsoft Word version of their Amended Proposed Joint Jury Instruction (Doc. 146) by **May 1, 2023**.

6. The following questions in the parties' Amended Proposed *Voir Dire* (Doc. 148) are **denied**: 40 and 41. The remaining questions are **granted** or **granted in substance** except that the parties agreed that proposed question 20 should be extracted and used as a summary of the case.
 - a. The parties shall meet and confer and file, by **May 1, 2023**, a Second Amended Proposed *Voir Dire* Form in accordance with the Court's rulings. The parties shall also email to Chambers at HalpernNYSDChambers@nysd.uscourts.gov a Microsoft Word version of that document.
7. The parties shall advise if, at any time, they require assistance from the Court with respect to settlement efforts and/or mediation.

The Clerk of Court is respectfully directed to terminate the motion sequence pending at Doc. 150.

SO ORDERED:

Dated: White Plains, New York
April 4, 2023



PHILIP M. HALPERN
United States District Judge